

HOUSE BILL REPORT

HB 3208

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to protecting customer proprietary network information.

Brief Description: Protecting customer proprietary network information.

Sponsors: Representatives P. Sullivan, Simpson, Wallace and Ericks.

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/2/06 [DPS].

Brief Summary of Substitute Bill

- Creates criminal and civil penalties for disclosure of a person's telephone records.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Morris, Chair; Kilmer, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks, Hankins, Hudgins, Nixon, P. Sullivan, Sump, Takko and Wallace.

Staff: Kara Durbin (786-7133).

Background:

Federal and state laws require telecommunications companies to provide certain protection to customer proprietary network information, such as the time, date, duration and destination number of each call made by a customer, as well as information about any subscribed services.

There are no state laws that create civil or criminal penalties for improper sale, use, or disclosure of a person's telephone records.

Summary of Substitute Bill:

It is a class C felony to intentionally sell, knowingly purchase, or fraudulently obtain a person's telephone records without the person's permission. It is a gross misdemeanor to knowingly receive a person's telephone records without the person's permission. The

Criminal Profiteering Act is amended to include the unauthorized sale or procurement of telephone records, which allows special remedies such as civil forfeiture and treble damages.

The following exceptions are made: (1) any actions by a government agency or its employees in the performance of official duties; and (2) specified actions by a telecommunications company that are necessary to conduct business, authorized by law, or consented to by the customer.

In addition to criminal penalties, violators may also be subject to injunctive relief and damages of at least \$5,000 per violation. Reasonable attorneys' fees and costs are also recoverable.

Substitute Bill Compared to Original Bill:

The substitute bill removes the Washington Utilities and Transportation Commission's (WUTC) authority over wireless companies with respect to customer privacy rules. It also removes the section of the bill that required the WUTC to adopt rules to protect the sale, use and disclosure of Customer Proprietary Network Information.

Instead, the substitute bill creates a class C felony for intentionally selling, knowingly purchasing, or fraudulently obtaining a person's telephone records without the person's permission. It also makes it a gross misdemeanor to knowingly receive a person's telephone records without the person's permission. In addition, the substitute bill amends the Criminal Profiteering Act to include the unauthorized sale or procurement of telephone records, which allows for special remedies such as civil forfeiture and treble damages.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support of substitute bill) We're concerned about disclosure of this data. Congress is trying to address this issue, and the FCC is taking a closer look at this, but in the meantime we need a remedy in our state. This is a blight on the communications industry. This bill is a step in the right direction and targets the "pretexters." There may be some technical issues that still need to be addressed.

Testimony Against: None.

Persons Testifying: (In support of substitute bill) Representative Pat Sullivan, prime sponsor; Steve Gano, Cingular Wireless; Russel Sarazen, T-Mobile; and David Danner, Utilities and Transportation Commission.

Persons Signed In To Testify But Not Testifying: None.